

106TH CONGRESS
2D SESSION

S. 2503

To amend the Clean Air Act to authorize States to regulate harmful fuel additives and to require fuel to contain fuel made from renewable sources, to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2000

Mr. DASCHLE (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to authorize States to regulate harmful fuel additives and to require fuel to contain fuel made from renewable sources, to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Renewable Fuels Act
5 of 2000”.

6 **SEC. 2. STATE PETITIONS FOR AUTHORITY TO CONTROL**
7 **OR PROHIBIT USE OF MTBE.**

8 Section 211(c) of the Clean Air Act (42 U.S.C.
9 7545(c)) is amended—

10 (1) in paragraph (1)(A), by striking “any emis-
11 sion product of such fuel or fuel additive causes, or
12 contributes, to air pollution which may reasonably be
13 anticipated to endanger the public health or wel-
14 fare,” and inserting “the fuel or fuel additive, or an
15 emission product of the fuel or fuel additive, causes
16 or contributes to air, water, or soil pollution that
17 may reasonably be anticipated to endanger the pub-
18 lic health or welfare or the environment,”;

19 (2) in paragraph (2)(C), by inserting “or have
20 other environmental impacts” after “emissions”;

21 (3) in paragraph (4)—

22 (A) in subparagraph (A), by redesignating
23 clauses (i) and (ii) as subclauses (I) and (II),
24 respectively, and indenting appropriately to re-
25 flect the amendments made by this paragraph;

1 (B) by striking “(4)(A) Except as other-
 2 wise provided in subparagraph (B) or (C),” and
 3 inserting the following:

4 “(4) LIMITATION ON STATE AUTHORITY WITH
 5 RESPECT TO FUELS AND FUEL ADDITIVES.—

6 “(A) IN GENERAL.—

7 “(i) FUELS AND FUEL ADDITIVES.—

8 Except as otherwise provided in subpara-
 9 graph (B) or (C) or paragraph (5),”;

10 (C) in subparagraph (A)—

11 (i) in clause (i) (as designated by sub-
 12 paragraph (B)), by inserting “or water or
 13 soil quality protection” after “emission
 14 control”; and

15 (ii) by adding at the end the fol-
 16 lowing:

17 “(ii) MTBE.—Notwithstanding clause
 18 (i), except as otherwise provided in sub-
 19 paragraph (B) or (C) or paragraph (5), no
 20 State (or political subdivision of a State)
 21 may prescribe or attempt to enforce, for
 22 the purpose of motor vehicle emission con-
 23 trol or water or soil quality protection, any
 24 control or prohibition on methyl tertiary

1 butyl ether as a fuel additive in a motor
 2 vehicle or motor vehicle engine.”;

3 (D) in subparagraph (B), by inserting “or
 4 water or soil quality protection” after “emission
 5 control”; and

6 (E) in subparagraph (C)—

7 (i) in the first sentence—

8 (I) by inserting “or water or soil
 9 quality protection” after “emission
 10 control”; and

11 (II) by inserting before the pe-
 12 riod at the end the following: “or, if
 13 the Administrator grants a petition of
 14 the State under paragraph (5)”; and

15 (ii) in the second sentence, by striking
 16 “only if he” and inserting “if the Adminis-
 17 trator”; and

18 (4) by adding at the end the following:

19 “(5) STATE PETITIONS FOR AUTHORITY TO
 20 CONTROL OR PROHIBIT USE OF FUELS OR FUEL AD-
 21 DITIVES FOR NON-AIR QUALITY PURPOSES.—

22 “(A) IN GENERAL.—A State seeking to
 23 prescribe and enforce a control or prohibition
 24 on a fuel or fuel additive for the purpose of
 25 water or soil quality protection under paragraph

1 (4)(C) shall submit a petition to the Adminis-
2 trator for authority to take such action.

3 “(B) REQUIRED ELEMENTS OF PETI-
4 TION.—A petition submitted under subpara-
5 graph (A) shall—

6 “(i) include information on—

7 “(I) the likely effects of the con-
8 trol or prohibition on fuel availability
9 and price in the affected supply area
10 or region; and

11 “(II) the improvements in envi-
12 ronmental quality or public health or
13 welfare expected to result from the
14 control or prohibition; and

15 “(ii) demonstrate that the authority is
16 necessary to protect the environment or
17 public health or welfare.

18 “(C) ACTION BY THE ADMINISTRATOR.—
19 Not later than 180 days after the date of re-
20 ceipt of a petition submitted under subpara-
21 graph (A), the Administrator shall grant or
22 deny the petition.

23 “(D) CRITERIA FOR GRANTING OF PETI-
24 TIONS.—The Administrator shall grant a peti-

tion submitted by a State under subparagraph
(A) unless the Administrator finds that—

“(i) the petition fails to reasonably
demonstrate that the authority is nec-
essary to protect the environment or public
health or welfare;

“(ii) the control or prohibition is likely
to have a substantial and significant ad-
verse effect on fuel availability or price (in-
cluding a State or regional effect) that
clearly outweighs any benefits associated
with the control or prohibition; or

“(iii) in the case of a petition sub-
mitted by a State seeking the authority
primarily to protect water resources, the
State has failed to take other appropriate
and reasonable actions to prevent contami-
nation of water resources by fuels or fuel
additives, such as—

“(I) adoption of a prohibition on
the delivery of gasoline to noncompli-
ant facilities with underground stor-
age tanks; or

1 “(II) operation of a statewide
2 monitoring and compliance assurance
3 system.

4 “(E) EFFECT OF FAILURE OF ADMINIS-
5 TRATOR TO ACT.—If, by the date that is 180
6 days after the date of receipt of a petition sub-
7 mitted under subparagraph (A), the Adminis-
8 trator has not proposed to grant or deny the
9 petition under subparagraph (C), the petition
10 shall be deemed to be granted.

11 “(F) PROCEDURAL REQUIREMENTS.—

12 “(i) INAPPLICABILITY OF CERTAIN
13 REQUIREMENTS.—Section 307(d) of this
14 Act and sections 553 through 557 of title
15 5, United States Code, shall not apply to
16 actions on a petition submitted under sub-
17 paragraph (A).

18 “(ii) PUBLIC NOTICE AND OPPOR-
19 TUNITY FOR COMMENT.—The Adminis-
20 trator shall provide public notice and op-
21 portunity for comment with respect to a
22 petition submitted under subparagraph
23 (A).

24 “(6) LIMITATION ON MTBE CONTENT.—The
25 Administrator shall promulgate regulations applica-

ble to each refiner, blender, or importer of gasoline to ensure that gasoline sold or introduced into commerce by the refiner, blender, or importer on or after January 1, 2004, in an area has a content of methyl tertiary butyl ether that is at a level that—

“(A) the Administrator determines may not reasonably be anticipated to endanger natural resources and the public health; and

“(B) does not exceed the annual average volume of methyl tertiary butyl ether per gallon of gasoline used in the area before 1995.”.

SEC. 3. WAIVER OF OXYGEN CONTENT REQUIREMENT.

(a) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(1) in paragraph (1)—

(A) by striking “Within 1 year after the enactment of the Clean Air Act Amendments of 1990,” and inserting the following:

“(A) IN GENERAL.—Not later than November 15, 1991,”;

(B) in the first sentence, by inserting before the period at the end the following: “and opt-in areas under paragraph (6)”;

(C) by adding at the end the following:

1 “(B) ADJUSTMENT OF VOC PERFORMANCE
2 STANDARD.—

3 “(i) IN GENERAL.—The Administrator
4 may adjust the volatile organic compounds
5 performance standard promulgated under
6 subparagraph (A) in the case of a fuel for-
7 mulation that achieves reductions in the
8 quantity of mass emissions of carbon mon-
9 oxide that are greater than or less than the
10 reductions associated with a reformulated
11 gasoline that contains 2.0 percent oxygen
12 by weight and otherwise meets the require-
13 ments of this subsection.

14 “(ii) AMOUNT OF ADJUSTMENT.—The
15 amount of an adjustment under clause (i)
16 shall be based on the effect on ozone con-
17 centrations of the combined reductions in
18 emissions of volatile organic compounds
19 and reductions in emissions of carbon mon-
20 oxide.”;

21 (2) in paragraph (2)—

22 (A) in subparagraph (B)—

23 (i) by striking “The oxygen” and in-
24 serting the following:

25 “(i) IN GENERAL.—The oxygen”; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(ii) WAIVER FOR CERTAIN STATES.—
4 The Administrator shall waive the applica-
5 tion of clause (i) for any ozone nonattain-
6 ment area in a State if the Governor of the
7 State submits for such a waiver an applica-
8 tion that—

9 “(I) demonstrates that the State
10 is in full compliance with Federal reg-
11 ulations concerning the control and
12 prevention of leaking underground
13 storage tanks; or

14 “(II) provides a plan that out-
15 lines the measures the State will take
16 to fully comply with the underground
17 storage tank regulations by a date not
18 later than 2 years after the receipt of
19 the application of the Governor.

20 “(iii) EFFECTIVE DATE.—A waiver
21 under clause (ii) shall become effective on
22 the later of—

23 “(I) January 1 of the calendar
24 year immediately following the cal-

1 endar year during which the applica-
2 tion for the waiver is received; or

3 “(II) the date that is 180 days
4 after the date on which the applica-
5 tion for the waiver is received.”; and

6 (B) by adding at the end the following:

7 “(E) AROMATICS.—The aromatic hydro-
8 carbon content of the gasoline shall not exceed
9 22 percent by volume.”;

10 (3) in paragraph (3)—

11 (A) in subparagraph (A)(ii), by striking
12 “25 percent” and inserting “22 percent”; and

13 (B) in subparagraph (B)—

14 (i) by striking “Any reduction” and
15 inserting the following:

16 “(iii) TREATMENT OF GREATER RE-
17 DUCTIONS.—Any reduction”; and

18 (ii) by adding at the end the fol-
19 lowing:

20 “(iv) ANTI-BACKSLIDING PROVI-
21 SION.—

22 “(I) IN GENERAL.—Not later
23 than June 1, 2000, the Administrator
24 shall revise performance standards

1 under this subparagraph as necessary
2 to ensure that—

3 “(aa) the ozone-forming po-
4 tential, taking into account all
5 ozone precursors (including vola-
6 tile organic compounds, oxides of
7 nitrogen, and carbon monoxide),
8 of the aggregate emissions during
9 the high ozone season (as deter-
10 mined by the Administrator)
11 from baseline vehicles when using
12 reformulated gasoline does not
13 exceed the ozone-forming poten-
14 tial of the aggregate emissions
15 during the high ozone season
16 from baseline vehicles when using
17 reformulated gasoline that com-
18 plies with the regulations that
19 were in effect on January 1,
20 2000, and were applicable to re-
21 formulated gasoline sold in cal-
22 endar year 2000 and subsequent
23 calendar years; and

24 “(bb) the aggregate emis-
25 sions of the pollutants specified

1 in subclause (II) from baseline
2 vehicles when using reformulated
3 gasoline do not exceed the aggregate
4 emissions of those pollutants
5 from baseline vehicles when using
6 reformulated gasoline that complies
7 with the regulations that
8 were in effect on January 1,
9 2000, and were applicable to reformulated
10 gasolines sold in calendar
11 year 2000 and subsequent
12 calendar years.

13 “(II) SPECIFIED POLLUTANTS.—
14 The pollutants specified in this sub-
15 clause are—

16 “(aa) toxics, categorized by
17 degrees of toxicity; and

18 “(bb) such other pollutants,
19 including pollutants regulated
20 under section 108, and such pre-
21 cursors to those pollutants, as
22 the Administrator determines by
23 regulation should be controlled to
24 prevent the deterioration of air
25 quality and to achieve attainment

1 of a national ambient air quality
 2 standard in 1 or more areas.”;
 3 and

4 (4) in paragraph (4)(B)—

5 (A) by redesignating clauses (i) and (ii) as
 6 subclauses (I) and (II), respectively, and in-
 7 denting appropriately to reflect the amendments
 8 made by this paragraph;

9 (B) by striking “The Administrator” and
 10 inserting the following:

11 “(i) IN GENERAL.—The Adminis-
 12 trator”;

13 (C) in clause (i) (as designated by sub-
 14 paragraph (B))—

15 (i) in subclause (I) (as redesignated
 16 by subparagraph (A)), by striking “, and”
 17 and inserting a semicolon;

18 (ii) in subclause (II) (as redesignated
 19 by subparagraph (A))—

20 (I) by striking “achieve equiva-
 21 lent” and inserting the following:

22 “achieve—

23 “(aa) equivalent”;

24 (II) by striking the period at the
 25 end and inserting “; or”; and

1 (III) by adding at the end the
2 following:

3 “(bb) combined reductions
4 in emissions of ozone forming
5 volatile organic compounds and
6 carbon monoxide that result in a
7 reduction in ozone concentration,
8 as provided in clause (ii)(I), that
9 is equivalent to or greater than
10 the reduction in ozone concentra-
11 tion achieved by a reformulated
12 gasoline meeting the applicable
13 requirements of paragraph (3);
14 and”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(III) achieve equivalent or
18 greater reductions in emissions of
19 toxic air pollutants than are achieved
20 by a reformulated gasoline meeting
21 the applicable requirements of para-
22 graph (3).”; and

23 (D) by adding at the end the following:

24 “(ii) CARBON MONOXIDE CREDIT.—

1 “(I) IN GENERAL.—In deter-
2 mining whether a fuel formulation or
3 slate of fuel formulations achieves
4 combined reductions in emissions of
5 ozone forming volatile organic com-
6 pounds and carbon monoxide that re-
7 sult in a reduction in ozone concentra-
8 tion that is equivalent to or greater
9 than the reduction in ozone concentra-
10 tion achieved by a reformulated gaso-
11 line meeting the applicable require-
12 ments of paragraph (3), the
13 Administrator—

14 “(aa) shall consider, to the
15 extent appropriate, the change in
16 carbon monoxide emissions from
17 baseline vehicles attributable to
18 an oxygen content in the fuel for-
19 mulation or slate of fuel formula-
20 tions that exceeds 2.0 percent by
21 weight; and

22 “(bb) may consider, to the
23 extent appropriate, the change in
24 carbon monoxide emissions de-

1 scribed in item (aa) from vehicles
2 other than baseline vehicles.

3 “(II) OXYGEN CREDITS.—Any
4 excess oxygen content that is taken
5 into consideration in making a deter-
6 mination under subclause (I) may not
7 be used to generate credits under
8 paragraph (7)(A).

9 “(III) RELATION TO TITLE I.—
10 Any fuel formulation or slate of fuel
11 formulations that is certified as equiv-
12 alent or greater under this subpara-
13 graph, taking into consideration the
14 combined reductions in emissions of
15 volatile organic compounds and car-
16 bon monoxide, shall receive the same
17 volatile organic compounds reduction
18 credit for the purposes of subsections
19 (b)(1) and (c)(2)(B) of section 182 as
20 a fuel meeting the applicable require-
21 ments of paragraph (3).”.

22 (b) REFORMULATED GASOLINE CARBON MONOXIDE
23 REDUCTION CREDIT.—Section 182(c)(2)(B) of the Clean
24 Air Act (42 U.S.C. 7511a(c)(2)(B)) is amended by adding
25 at the end the following: “An adjustment to the volatile

1 organic compound emission reduction requirements under
 2 section 211(k)(3)(B)(iv) shall be credited toward the re-
 3 quirement for VOC emissions reductions under this sub-
 4 paragraph.”.

5 **SEC. 4. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 6 **LATED GASOLINE PROGRAM.**

7 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
 8 7545(k)(6)) is amended—

9 (1) by striking “(6) OPT-IN AREAS.—(A)
 10 Upon” and inserting the following:

11 “(6) OPT-IN AREAS.—

12 “(A) CLASSIFIED AREAS.—

13 “(i) IN GENERAL.—Upon”;

14 (2) in subparagraph (B), by striking “(B) If”
 15 and inserting the following:

16 “(ii) EFFECT OF INSUFFICIENT DO-
 17 MESTIC CAPACITY TO PRODUCE REFORMU-
 18 LATED GASOLINE.—If”;

19 (3) in subparagraph (A)(ii) (as so redesign-
 20 nated)—

21 (A) in the first sentence, by striking “sub-
 22 paragraph (A)” and inserting “clause (i)”; and

23 (B) in the second sentence, by striking
 24 “this paragraph” and inserting “this subpara-
 25 graph”; and

1 (4) by adding at the end the following:

2 “(B) NONCLASSIFIED AREAS.—

3 “(i) IN GENERAL.—Upon the applica-
4 tion of the Governor of a State, the Ad-
5 ministrator shall apply the prohibition
6 specified in paragraph (5) in any area in
7 the State that is not a covered area or an
8 area referred to in subparagraph (A)(i).

9 “(ii) PUBLICATION OF APPLICA-
10 TION.—As soon as practicable after receipt
11 of an application under clause (i), the Ad-
12 ministrator shall publish the application in
13 the Federal Register.”.

14 **SEC. 5. RENEWABLE CONTENT OF GASOLINE AND OTHER**
15 **MOTOR FUELS.**

16 (a) IN GENERAL.—Section 211 of the Clean Air Act
17 (42 U.S.C. 7545) is amended—

18 (1) by redesignating subsection (o) as sub-
19 section (q); and

20 (2) by inserting after subsection (n) the fol-
21 lowing:

22 “(o) RENEWABLE CONTENT OF GASOLINE.—

23 “(1) IN GENERAL.—

24 “(A) REGULATIONS.—Not later than Sep-
25 tember 1, 2000, the Administrator shall pro-

1 mulgate regulations applicable to each refiner,
2 blender, or importer of gasoline to ensure that
3 gasoline sold or introduced into commerce in
4 the United States by the refiner, blender, or im-
5 porter complies with the renewable content re-
6 quirements of this subsection.

7 “(B) RENEWABLE CONTENT REQUIRE-
8 MENTS.—

9 “(i) IN GENERAL.—All gasoline sold
10 or introduced into commerce in the United
11 States by a refiner, blender, or importer
12 shall contain, on a quarterly average basis,
13 a quantity of fuel derived from a renewable
14 source (including biomass ethanol) that is
15 not less than the applicable percentage by
16 volume for the quarter.

17 “(ii) BIOMASS ETHANOL.—For the
18 purposes of clause (i), 1 gallon of biomass
19 ethanol shall be considered to be the equiv-
20 alent of 1.5 gallons of fuel derived from a
21 renewable source.

22 “(iii) APPLICABLE PERCENTAGE.—
23 For the purposes of clause (i), the applica-
24 ble percentage for a quarter of a calendar

1 year shall be determined in accordance
2 with the following table:

“Calendar year:	Applicable Percentage of Fuel Derived From a Renewable Source:
2000	1.3
2001	1.5
2002	1.7
2003	1.9
2004	2.1
2005	2.3
2006	2.5
2007	2.7
2008	2.9
2009	3.1
2010 and thereafter	3.3.

3 “(C) FUEL DERIVED FROM A RENEWABLE
4 SOURCE.—For the purposes of this subsection,
5 a fuel shall be considered to be derived from a
6 renewable source if the fuel—

7 “(i) is produced from grain, starch,
8 oilseeds, or other biomass; and

9 “(ii) is used to replace or reduce the
10 quantity of fossil fuel present in a fuel
11 mixture used to operate a motor vehicle.

12 “(D) BIOMASS ETHANOL.—For the pur-
13 poses of this subsection, a fuel shall be consid-
14 ered to be biomass ethanol if the fuel is ethanol
15 derived from any lignocellulosic or
16 hemicellulosic matter that is available on a re-
17 newable or recurring basis, including—

18 “(i) dedicated energy crops and trees;

19 “(ii) wood and wood residues;

1 “(iii) plants;

2 “(iv) grasses;

3 “(v) agricultural commodities and res-
4 idues;

5 “(vi) fibers;

6 “(vii) animal wastes and other waste
7 materials; and

8 “(viii) municipal solid waste.

9 “(E) CREDIT PROGRAM.—

10 “(i) IN GENERAL.—The regulations
11 promulgated under this subsection shall
12 provide for the generation of an appro-
13 priate amount of credits by a person that
14 refines, blends, or imports gasoline that
15 contains, on a quarterly average basis, a
16 quantity of fuel derived from a renewable
17 source or a quantity of biomass ethanol
18 that is greater than the quantity required
19 under subparagraph (B).

20 “(ii) USE OF CREDITS.—The regula-
21 tions shall provide that a person that gen-
22 erates the credits may use the credits, or
23 transfer all or a portion of the credits to
24 another person, for the purpose of com-
25 plying with subparagraph (B).

1 “(2) WAIVERS.—

2 “(A) IN GENERAL.—The Administrator, in
3 consultation with the Secretary of Agriculture,
4 may waive the requirements of paragraph
5 (1)(B) in whole or in part on petition by a
6 State—

7 “(i) based on a determination by the
8 Administrator, after public notice and op-
9 portunity for comment, that implementa-
10 tion of the requirements would severely
11 harm the economy or environment of a
12 State, a region, or the United States; or

13 “(ii) based on a determination by the
14 Administrator, after public notice and op-
15 portunity for comment, that there is an in-
16 adequate domestic supply or distribution
17 capacity to meet the requirements of para-
18 graph (1)(B).

19 “(B) PETITIONS FOR WAIVERS.—The Ad-
20 ministrator, in consultation with the Secretary
21 of Agriculture—

22 “(i) shall approve or deny a State pe-
23 tition for a waiver of the requirements of
24 paragraph (1)(B) within 180 days after

1 the date on which the petition is received;
 2 but

3 “(ii) may extend that period for up to
 4 60 additional days to provide for public no-
 5 tice and opportunity for comment and for
 6 consideration of the comments submitted.

7 “(C) TERMINATION OF WAIVERS.—A waiv-
 8 er granted under subparagraph (A) shall termi-
 9 nate after 1 year, but may be renewed by the
 10 Administrator after consultation with the Sec-
 11 retary of Agriculture.

12 “(D) OXYGEN CONTENT WAIVERS.—The
 13 grant or denial of a waiver under subsection
 14 (k)(2)(B) shall not affect the requirements of
 15 this subsection.

16 “(3) SMALL REFINERS.—The regulations pro-
 17 mulgated by the Administrator under paragraph (1)
 18 may provide an exemption, in whole or in part, for
 19 small refiners (as defined by the Administrator).

20 “(4) GUIDANCE FOR LABELING.—After con-
 21 sultation with the Secretary of Agriculture, the Ad-
 22 ministrator shall issue guidance to the States for la-
 23 beling, at the point of retail sale—

24 “(A) the fuel derived from a renewable
 25 source that is contained in the fuel sold; and

1 “(B) the major fuel additive components of
2 the fuel sold.

3 “(5) REPORTS TO CONGRESS.—Not less often
4 than every 3 years, the Administrator shall submit
5 to Congress a report on—

6 “(A) reductions in emissions of criteria air
7 pollutants listed under section 108 that result
8 from implementation of this subsection; and

9 “(B) in consultation with the Secretary of
10 Energy, greenhouse gas emission reductions
11 that result from implementation of this sub-
12 section.

13 “(p) RENEWABLE CONTENT OF DIESEL FUEL.—

14 “(1) IN GENERAL.—Not later than September
15 1, 2000, the Administrator, after consideration of
16 applicable economic and environmental factors, shall
17 promulgate regulations applicable to each refiner,
18 blender, or importer of diesel fuel to ensure that the
19 diesel fuel sold or introduced into commerce in the
20 United States by the refiner, blender, or importer
21 complies with the renewable content requirements
22 established by the Administrator under this sub-
23 section.

24 “(2) ELEMENTS OF PROGRAM.—To the extent
25 that the Administrator determines it to be appro-

1 prate, the Administrator shall by regulation estab-
 2 lish a program for diesel fuel that has renewable
 3 content requirements similar to the requirements of
 4 the program for gasoline under subsection (o) in
 5 order to ensure the use of biodiesel fuel.”.

6 (b) PENALTIES AND ENFORCEMENT.—Section
 7 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
 8 amended—

9 (1) in paragraph (1)—

10 (A) in the first sentence, by striking “or
 11 (n)” each place it appears and inserting “(n),
 12 or (o)”; and

13 (B) in the second sentence, by striking “or
 14 (m)” and inserting “(m), or (o)”; and

15 (2) in the first sentence of paragraph (2), by
 16 striking “and (n)” each place it appears and insert-
 17 ing “(n), and (o)”.

18 (c) PREVENTION OF EFFECTS ON HIGHWAY APPOR-
 19 TIONMENTS.—

20 (1) SURFACE TRANSPORTATION PROGRAM.—

21 Section 104(b)(3) of title 23, United States Code, is
 22 amended by adding at the end the following:

23 “(C) DETERMINATION OF ESTIMATED TAX
 24 PAYMENTS.—For the purpose of determining
 25 under subparagraph (A)(iii) the estimated tax

1 payments attributable to highway users in a
2 State paid into the Highway Trust Fund (other
3 than the Mass Transit Account) in a fiscal
4 year, the amount paid into the Highway Trust
5 Fund with respect to the sale of gasohol or
6 other fuels containing alcohol by reason of the
7 tax imposed by section 4041 (relating to special
8 fuels) or 4081 (relating to gasoline) of the In-
9 ternal Revenue Code of 1986 shall be treated as
10 being equal to the amount that would have been
11 so imposed with respect to that sale without re-
12 gard to the reduction in revenues resulting from
13 the application of the regulations promulgated
14 under section 211(o) of the Clean Air Act (42
15 U.S.C. 7545(o)) and the following provisions of
16 the Internal Revenue Code of 1986:

17 “(i) Section 4041(b)(2) (relating to
18 exemption for qualified methanol and eth-
19 anol fuel).

20 “(ii) Section 4041(k) (relating to fuels
21 containing alcohol).

22 “(iii) Section 4041(m) (relating to
23 certain alcohol fuels).

1 “(iv) Section 4081(c) (relating to re-
 2 duced rate on gasoline mixed with alco-
 3 hol).”.

4 (2) MINIMUM GUARANTEE.—Section 105(f)(1)
 5 of title 23, United States Code, is amended—

6 (A) by striking “(1) IN GENERAL.—Be-
 7 fore” and inserting the following: “(1) IN GEN-
 8 ERAL.—

9 “(A) ADJUSTMENT.—Before”; and

10 (B) by adding at the end the following:

11 “(B) DETERMINATION OF ESTIMATED TAX
 12 PAYMENTS.—For the purpose of determining
 13 under this subsection the estimated tax pay-
 14 ments attributable to highway users in a State
 15 paid into the Highway Trust Fund (other than
 16 the Mass Transit Account) in a fiscal year, the
 17 amount paid into the Highway Trust Fund with
 18 respect to the sale of gasohol or other fuels con-
 19 taining alcohol by reason of the tax imposed by
 20 section 4041 (relating to special fuels) or 4081
 21 (relating to gasoline) of the Internal Revenue
 22 Code of 1986 shall be treated as being equal to
 23 the amount that would have been so imposed
 24 with respect to that sale without regard to the
 25 reduction in revenues resulting from the appli-

cation of the regulations promulgated under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) and the following provisions of the Internal Revenue Code of 1986:

“(i) Section 4041(b)(2) (relating to exemption for qualified methanol and ethanol fuel).

“(ii) Section 4041(k) (relating to fuels containing alcohol).

“(iii) Section 4041(m) (relating to certain alcohol fuels).

“(iv) Section 4081(c) (relating to reduced rate on gasoline mixed with alcohol).”.

SEC. 6. UPDATING OF BASELINE YEAR.

(a) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(1) in paragraph (8)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking “Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the” and inserting “The”; and

(ii) by striking the second sentence;

1 (B) by striking “calendar year 1990” each
 2 place it appears and inserting “calendar year
 3 1999”; and

4 (C) in subparagraph (E), by striking “such
 5 1990 gasoline” and inserting “such 1999 gaso-
 6 line”; and

7 (2) in subparagraphs (A) and (B)(ii) of para-
 8 graph (10), by striking “1990” each place it appears
 9 and inserting “1999”.

10 (b) REGULATIONS.—As soon as practicable after the
 11 date of enactment of this Act, the Administrator of the
 12 Environmental Protection Agency shall revise the regula-
 13 tions promulgated under section 211(k) of the Clean Air
 14 Act (42 U.S.C. 7545(k)) to reflect the amendments made
 15 by subsection (a).

16 **SEC. 7. LEAKING UNDERGROUND STORAGE TANKS.**

17 (a) TRUST FUND DISTRIBUTION.—Section 9004 of
 18 the Solid Waste Disposal Act (42 U.S.C. 6991c) is amend-
 19 ed by adding at the end the following:

20 “(f) TRUST FUND DISTRIBUTION.—

21 “(1) IN GENERAL.—

22 “(A) AMOUNT AND PERMITTED USE OF
 23 DISTRIBUTION.—The Administrator shall dis-
 24 tribute to States at least 85 percent of the
 25 funds appropriated to the Environmental Pro-

tection Agency from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986 (referred to in this subsection as the ‘Trust Fund’) for each fiscal year for use in paying the reasonable costs, incurred under cooperative agreements with States, of—

“(i) actions taken by a State under section 9003(h)(7)(A);

“(ii) necessary administrative expenses directly related to corrective action and compensation programs under subsection (c)(1);

“(iii) enforcement by a State or local government of a State program approved under this section or of State or local requirements regulating underground storage tanks that are similar or identical to this subtitle;

“(iv) State or local corrective actions pursuant to regulations promulgated under section 9003(c)(4); or

“(v) corrective action and compensation programs under subsection (c)(1) for releases from underground storage tanks

1 regulated under this subtitle if, as deter-
2 mined by the State in accordance with
3 guidelines developed between the Environ-
4 mental Protection Agency and the States,
5 the financial resources of an owner or op-
6 erator (including resources provided by
7 programs under subsection (c)(1)) are not
8 adequate to pay for the cost of a corrective
9 action without significantly impairing the
10 ability of the owner or operator to continue
11 in business.

12 “(B) NONPERMITTED USES.—Funds pro-
13 vided by the Administrator under subparagraph
14 (A) shall not be used by a State to provide fi-
15 nancial assistance to an owner or operator to
16 meet the requirements concerning underground
17 storage tanks contained in part 280 of title 40,
18 Code of Federal Regulations (as in effect on the
19 date of enactment of this subsection), except as
20 provided in subparagraph (A)(v), or similar re-
21 quirements in State programs approved under
22 this section or similar State or local provisions.

23 “(C) TANKS WITHIN TRIBAL JURISDIC-
24 TION.—The Administrator, in coordination with
25 Indian tribes, shall—

1 “(i) expeditiously develop and imple-
2 ment a strategy to—

3 “(I) take necessary corrective ac-
4 tion in response to releases from leak-
5 ing underground storage tanks located
6 wholly within the exterior boundaries
7 of an Indian reservation or other area
8 within the jurisdiction of an Indian
9 tribe, giving priority to releases that
10 present the greatest threat to human
11 health or the environment; and

12 “(II) implement and enforce re-
13 quirements regulating underground
14 storage tanks located wholly within
15 the exterior boundaries of an Indian
16 reservation or other area within the
17 jurisdiction of an Indian tribe; and

18 “(ii) not later than 2 years after the
19 date of enactment of this subsection, and
20 every 2 years thereafter, submit to Con-
21 gress a report summarizing the status of
22 implementation of the leaking underground
23 storage tank program located wholly within
24 the exterior boundaries of an Indian res-

1 ervation or other area within the jurisdic-
2 tion of an Indian tribe.

3 “(2) ALLOCATION.—

4 “(A) PROCESS.—Subject to subparagraph
5 (B), in the case of a State with which the Ad-
6 ministrator has entered into a cooperative
7 agreement under section 9003(h)(7)(A), the
8 Administrator shall distribute funds from the
9 Trust Fund to the State using the allocation
10 process developed by the Administrator for such
11 cooperative agreements.

12 “(B) REVISIONS TO PROCESS.—The Ad-
13 ministrator may revise the allocation process
14 only after—

15 “(i) consulting with State agencies re-
16 sponsible for overseeing corrective action
17 for releases from underground storage
18 tanks and with representatives of owners
19 and operators; and

20 “(ii) taking into consideration, at a
21 minimum—

22 “(I) the total revenue received
23 from each State into the Trust Fund;

1 “(II) the number of confirmed
2 releases from leaking underground
3 storage tanks in each State;

4 “(III) the number of notified pe-
5 troleum storage tanks in each State;

6 “(IV) the percentage of the popu-
7 lation of each State using ground
8 water for any beneficial purpose;

9 “(V) the evaluation of the pro-
10 gram performance of each State;

11 “(VI) the evaluation of the finan-
12 cial needs of each State; and

13 “(VII) the evaluation of the abil-
14 ity of each State to use the funds in
15 any year.

16 “(3) DISTRIBUTIONS TO STATE AGENCIES.—

17 “(A) IN GENERAL.—Distributions from the
18 Trust Fund under this subsection shall be made
19 directly to the State agency entering into a co-
20 operative agreement or enforcing the State pro-
21 gram.

22 “(B) ADMINISTRATIVE EXPENSES.—A
23 State agency that receives funds under this sub-
24 section shall limit the proportion of those funds
25 that are used to pay administrative expenses to

1 a percentage that the State may establish by
2 law.

3 “(4) COST RECOVERY PROHIBITION.—Funds
4 provided to States from the Trust Fund to owners
5 or operators for programs under section 9004(c)(1)
6 for releases from underground storage tanks are not
7 subject to cost recovery by the Administrator under
8 section 9003(h)(6).

9 “(5) PERMITTED USES.—In addition to uses
10 authorized by other provisions of this subtitle, the
11 Administrator may use funds appropriated to the
12 Environmental Protection Agency from the Trust
13 Fund for enforcement of any regulation promulgated
14 by the Administrator under this subtitle.”.

15 (b) ADDITION TO TRUST FUND PURPOSES.—Section
16 9508(c)(1) of the Internal Revenue Code of 1986 (relating
17 to expenditures) is amended by striking “to carry out sec-
18 tion 9003(h)” and all that follows and inserting “to carry
19 out—

20 “(A) section 9003(h) of the Solid Waste
21 Disposal Act (as in effect on the date of enact-
22 ment of the Superfund Amendments and Reau-
23 thorization Act of 1986); and

1 “(B) section 9004(f) of the Solid Waste
2 Disposal Act (as in effect on the date of enact-
3 ment of the Renewable Fuels Act of 2000).”.

4 (c) STUDIES.—Not later than 18 months after the
5 date of enactment of this Act, the Administrator of the
6 Environmental Protection Agency shall conduct—

7 (1) a study to determine the corrosive effects of
8 methyl tertiary butyl ether and other widely used
9 fuels and fuel additives on underground storage
10 tanks; and

11 (2) a study to assess the potential public health
12 and environmental risks associated with the use of
13 aboveground storage tanks and the effectiveness of
14 State and Federal regulations or voluntary stand-
15 ards, in existence as of the time of the study, to pro-
16 vide adequate protection of public health and the en-
17 vironment.

18 (d) TECHNICAL AMENDMENTS.—

19 (1) Section 9001(3)(A) of the Solid Waste Dis-
20 posal Act (42 U.S.C. 6991(3)(A)) is amended by
21 striking “sustances” and inserting “substances”.

22 (2) Section 9003(f)(1) of the Solid Waste Dis-
23 posal Act (42 U.S.C. 6991b(f)(1)) is amended by
24 striking “subsection (c) and (d) of this section” and
25 inserting “subsections (c) and (d)”.

1 (3) Section 9004(a) of the Solid Waste Disposal
 2 Act (42 U.S.C. 6991c(a)) is amended in the first
 3 sentence by striking “referred to” and all that fol-
 4 lows and inserting “referred to in subparagraph (A)
 5 or (B), or both, of section 9001(2).”.

6 (4) Section 9005 of the Solid Waste Disposal
 7 Act (42 U.S.C. 6991d) is amended—

8 (A) in subsection (a), by striking “study
 9 taking” and inserting “study, taking”;

10 (B) in subsection (b)(1), by striking
 11 “relevent” and inserting “relevant”; and

12 (C) in subsection (b)(4), by striking
 13 “Evironmental” and inserting “Environ-
 14 mental”.

15 **SEC. 8. PRIVATE WELL PROTECTION PILOT PROGRAM.**

16 (a) IN GENERAL.—The Administrator of the Envi-
 17 ronmental Protection Agency may enter into cooperative
 18 agreements with the United States Geological Survey, the
 19 Department of Agriculture, States, local governments, pri-
 20 vate landowners, and other interested parties to establish
 21 voluntary pilot projects to protect the water quality of pri-
 22 vate wells and to provide technical assistance to users of
 23 water from private wells.

1 (b) LIMITATION.—This section does not authorize the
2 issuance of guidance or regulations regarding the use or
3 protection of private wells.

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